

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:02CR216
)	
v.)	
)	
JOHN L. RODDY,)	ORDER
)	
Defendant.)	
)	

This matter is before the Court on defendant's motion to reduce sentence (Filing No. [55](#)), supported by a brief (Filing No. [56](#)). The Court notes that the government and the defendant have entered into a stipulation (Filing No. [57](#)), which has erroneously applied the November 1, 2007, modifications to sentencing for crack cocaine. That stipulation will be rejected by the Court. The Court has reviewed both the motion and the brief and finds that the motion should be denied.

The modifications to the United States Sentencing Guidelines for crack cocaine which became effective November 1, 2007, do not apply to the defendant as he was sentenced as a career offender. *See United States v. Thomas*, 524 F.3d 889 (2008). The guidelines for determination of a sentence for a career offender have not been changed or modified by the recent adjustments to the crack cocaine guidelines. For these reasons, the guidelines calculations would be the same today as they were at the time he was sentenced in July of 2004. As none of the

amendments to the guidelines impact the determination of the defendant's sentence under the guidelines, § 1B1.10(a) of the guidelines is not applicable. For these reasons, defendant's motions will be denied. Accordingly,

IT IS ORDERED that the stipulation of the parties is rejected by the Court; defendant's motion to reduce sentence is denied.

DATED this 29th day of December, 2008.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court